

Appl. No. : 10/726,256
Filed : December 2, 2003

COMMENTS

Claims 33-41 and 43-46 remain pending in the present application, Claim 73 having been canceled without prejudice or disclaimer, and Claims 33, 36, 38 and 45 having been amended. The claims set forth above include marking to show the changes made by way of the present amendment, deletions being in ~~strikeout~~ and additions being underlined.

In response to the Office Action mailed January 26, 2006, Applicants respectfully request the Examiner to reconsider the above-captioned application in view of the foregoing amendments and the following comments.

Amendments to the Specification and to the Claims Add No New Matter

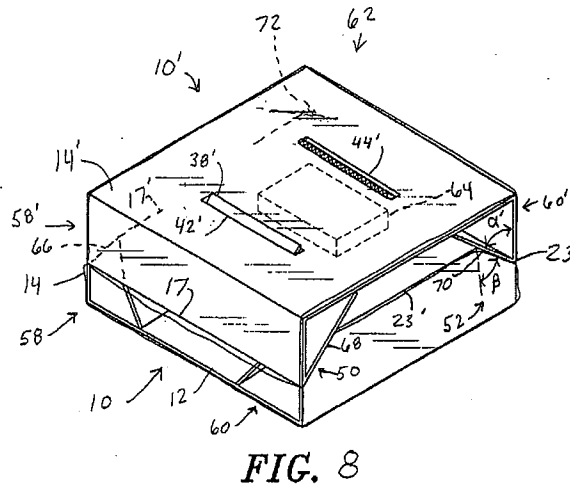
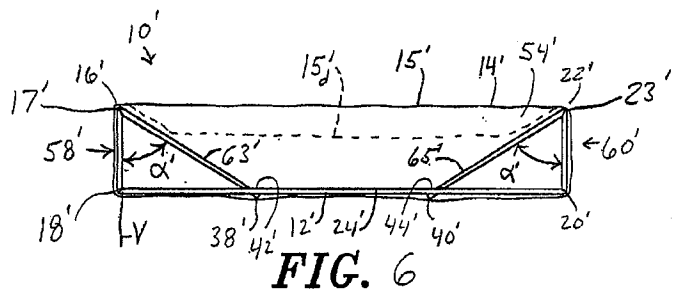
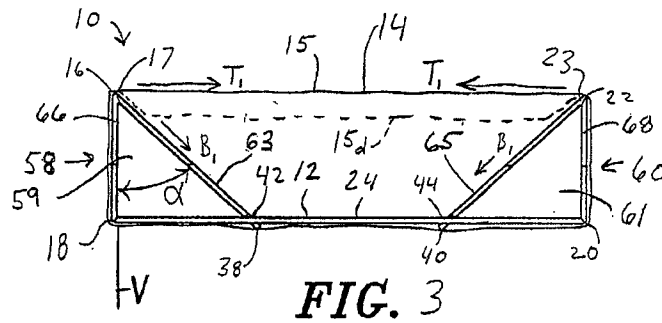
The present amendments to the specification updates the status of the parent application and corrects the application number of the parent application. No new matter has been added by these amendments.

Applicants have also amended Claims 33, 36, 38 and 45. The amendments are supported the drawings, for example, Figs. 3, 4, 6, 7 and 8 and the related descriptions in the specification. Applicants have canceled withdrawn Claim 73 solely to reduce the fees associated with this filing. Applicants expressly reserve the right to further prosecute the original version of Claim 73 through continuation and divisional practice.

Hagedon Does Not Anticipate Claims 33, 34 and 43

Claims 33, 34 and 43 stand rejected under 35 U.S.C. § 102(b) as being as being anticipated by U.S. Patent No. 5,405,000 issued to Hagedon et al. Applicants respectfully traverse the present rejection. However, in order to expedite prosecution of the present application, Applicants have amended Claim 33. Applicants expressly reserve the right to further prosecute the original version of Claims 33-35, 37, 43, 44, and 46 through continuation practice.

In the non-limiting embodiment of Figs. 3, 6 and 8 and the related description in the present Application, the retention sleeves 14 and 14' are engaged with the frames 12 and 12' to form the subassemblies 10 and 10' which are nested into a packaging assembly 62. (Please see Figs. 3, 6 and 8 of the present application below.)



Applicants respectfully direct the Examiner to page 9, lines 13-15 of the present Application, where it is disclosed that "a frame member 12 (Figure 1) and a retention

sleeve 14 (Figure 2) cooperate to form a packaging assembly 10 (Figures 2-4).” Additionally, Applicants direct the Examiner to page 14, lines 4-6 of the present Application where it is disclosed that “the packaging assembly 62 includes the packaging assembly 10 shown in Figure 3, and the packaging assembly 10' shown in Figure 6 arranged in an opposed orientation.”

Hagedon fails to teach such features among other features of Claim 33. Thus, Applicants submit that Claim 33 clearly and non-obviously defines over the prior art.

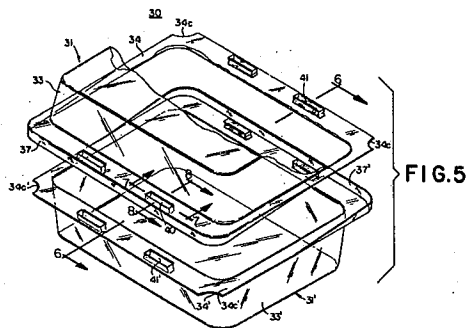
Additionally, Applicants submit that each of Claims 34 and 43 also defines over Hagedon, not only because it depends from Claim 33, but also on their own merit.

The Cited References do not Make Obvious the Invention of Claims 35, 37, 44 and 46.

Claims 35, 37, 44 and 46 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hagedon and further in view of US Patent No. 5,046,659 to Warburton. Applicants respectfully traverse the Examiner’s rejection.

Claims 35, 37, 44 and 46 depend directly or indirectly from patentable independent Claim 33. Thus, Applicants submit that the present rejection of these claims is now moot because, as noted above, Applicants believe Claim 33 clearly and non-obviously defines over the outstanding rejections. However, Applicants also submit that Claims 35, 37, 44 and 46 disclose additional patentable subject matter.

Warburton discloses a plastic container 30 having latching structure for latching a lid 31 and a base 31', as shown in Fig. 5 below. The latching structure has a male rib 40 of the lid 31 and a female recess 41' of the base 31'. The rib 40 and recess 41' are engaged with each other.



Warburton, however, does not disclose or suggest the first and second retention members and the formation of the first subassembly of the first frame and the first retention member and the second subassembly of the second frame and the second retention member.

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Rather, Warburton discloses that the container 30 has only the lid 30 and the base 31' without any retention member.

In contrast with Warburton, Claim 33 now recites, among other recitations, "wherein the first frame member and the first retention member are engaged with each other to form a first subassembly, wherein the second frame member and the second retention member are engaged with each other to form a second subassembly, the first and second subassemblies being configured to nest with each other."

For example, in the non-limiting embodiment in Figs. 3, 6 and 8 and as described in the related description of the present Application, the retention sleeves 14 and 14' are engaged with the frames 12 and 12' to form the subassemblies 10 and 10' which are nested into a packaging assembly 62. (Please see Figs. 3, 6 and 8 of the present Application reproduced above.)

Applicants also respectfully direct the Examiner to page 9, lines 13-15 of the present Application where it is disclosed that "a frame member 12 (Figure 1) and a retention sleeve 14 (Figure 2) cooperate to form a packaging assembly 10 (Figures 2-4)" and to page 14, lines 4-6 of the present Application which disclose that "the packaging assembly 62 includes the packaging assembly 10 shown in Figure 3, and the packaging assembly 10' shown in Figure 6 arranged in an opposed orientation."

Warburton thus fails to rectify the failures of Hagedon to teach the recitations of Claim 33. Thus, Applicants respectfully submit that Hagedon and Warburton, either separately or when taken together, fail to teach or suggest all the elements of Claim 33.

Accordingly, Applicants submit that Claim 35, 37, 44 and 46 also defines over Hagedon and Warburton and are currently in condition for allowance, not only because it depends from Claim 33, but also on its own merit.

The Cited References do not Make Obvious the Invention of Claims 36, 38-41 and 45.

Claims 36, 38-41 and 45 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hagedon and further in view of Warburton. Applicants respectfully traverse the Examiner's rejection. However, in order to expedite prosecution of the present application, Applicants have amended Claims 36, 38 and 45. Applicants expressly reserve the right to further prosecute the original versions of Claims 36, 38 and 45 and its dependent claims through continuation practice.

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Claims 36, 38 and 45 are patentable independent claims. Claims 39-41 depend directly or indirectly from patentable independent Claim 38, and thus are also patentable, not only because they depend from one of Claims 36, 38, or 45, but also on their own merit.

As discussed above, in contrast with Hagedon and Warburton, each of Claims 36, 38 and 45 now recite, among other recitations, "wherein the first frame member and the first retention member are engaged with each other to form a first subassembly, wherein the second frame member and the second retention member are engaged with each other to form a second subassembly, the first and second subassemblies being configured to be nested with each other." Thus, Applicants respectfully submit that Hagedon and Warburton, either separately or when taken together, fail to teach or suggest all the elements of Claim 36, 38 and 45.

Accordingly, Applicants believe that Claims 36, 38 and 45, are currently in condition for allowance. Additionally, Applicants submit that Claim 39-41 also defines over Hagedon and Warburton, not only because it depends from Claim 38, but also on its own merit.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any

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undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicants' attorney in order to resolve such issue promptly.

Respectfully submitted,

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